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Attorneys for Defendant
ILLINOIS UNION INSURANCE COMPANY

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

VISION SERVICE PLAN, a California Not-
For-Profit Corporation,

Plaintiff,

v.

ILLINOIS UNION INSURANCE
COMPANY; and DOES 1 through 50,
inclusive,

Defendants.

Case No.

[Removed from Sacramento County Superior
Court Case No. 34-2022-00316963]

**DEFENDANT ILLINOIS UNION
INSURANCE COMPANY'S NOTICE OF
REMOVAL**

[28 U.S.C. § 1441(B) (Diversity)]

Final Status Conference: Not Set
Trial Date: Not Set
Action Filed: 03/17/2022

TO ALL PARTIES, THEIR ATTORNEYS OF RECORD IN THIS ACTION AND THE
CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant Illinois Union Insurance Company ("Illinois
Union") hereby removes this state court action filed under Case No. 34-2022-00316963 in the
Superior Court of California, Sacramento County, California, to the United States District Court for
the Eastern District of California, pursuant to 28 U.S.C. § 1332 and 28 U.S.C. § 1441 *et seq.*

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SUMMARY OF THE BASIS FOR REMOVAL

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2 1. Illinois Union may remove this action based on diversity jurisdiction, pursuant to
3 28 U.S.C. § 1332 and 28 U.S.C. § 1441(b).

PROCEDURAL HISTORY AND STATE COURT FILINGS

4
5 2. On March 17, 2022, Plaintiff Vision Service Plan (“Plaintiff”) filed a Complaint in
6 the Superior Court for the State of California, County of Sacramento, Case No. 34-2022-
7 00316963, entitled *Vision Service Plan v. Illinois Union Insurance Co.*, naming Illinois Union and
8 DOES 1 through 50 as defendants. However, Plaintiff did not serve the Complaint at that time. A
9 true and correct copy of the Complaint is attached hereto as **Exhibit 1**.

10 3. On April 5, 2022, counsel for Illinois Union accepted service of the following via
11 Notice of Acknowledge of Receipt:

- 12 • A copy of the Complaint.
- 13 • A Summons issued on March 18, 2022. A true and correct copy of the
- 14 Summons is Attached hereto as **Exhibit 2**.
- 15 • Civil Case Cover Sheet; Order re: Delay in Scheduling Initial Case
- 16 Management Conference; Alternative Dispute Resolution Information Package;
- 17 Stipulation and Order to Mediation – Unlimited Civil; and Program Case
- 18 Notice. True and correct copies of these documents are attached hereto as
- 19 **Exhibit 3**.

20 4. Also, the Notice of Acknowledgment of Receipt—Civil executed by Illinois
21 Union’s counsel is attached hereto as **Exhibit 4**.

22 5. The Complaint alleges four causes of action against Illinois Union: (1) Breach of
23 Contract; (2) Breach of the Covenant of Good Faith and Fair Dealing (Bad Faith); (3) Declaratory
24 Relief; and (4) Specific Performance. Plaintiff’s Complaint concerns a first party insurance claim
25 arising out of the COVID-19 pandemic under the insurance contract issued by Illinois Union to
26 Plaintiff. Plaintiff alleges it sustained losses in the form of business interruption and remediation
27 costs arising from the COVID-19 pandemic and submitted an insurance claim to Illinois Union for
28

1 coverage under its policy. Plaintiff contends that Illinois wrongfully denied coverage for its claim,
2 which constitutes bad faith by Illinois Union. *See Ex. 1*, Complaint.

3 6. Illinois Union has not yet filed a response to Plaintiff's Complaint.

4 **DIVERSITY JURISDICTION**

5 7. Federal courts have jurisdiction over controversies between "citizens of different
6 states" pursuant to 28 U.S.C. section 1332(a)(1) and Article III, Section 2, of the United States
7 Constitution. *Navarro Sav. Ass'n. v. Lee*, 446 U.S. 458, 460-61 (1980).

8 8. Plaintiff Vision Service Plan is a citizen of the State of California, as it is a
9 California not-for-profit corporation with its principal place of business in Rancho Cordova in
10 Sacramento County, California. *Ex. 1*, Complaint ¶ 4.

11 9. Defendant Illinois Union Insurance Company is a citizen of the State of Illinois and
12 the Commonwealth of Pennsylvania, as it is a corporation formed under the laws of Illinois with
13 its principal place of business in Pennsylvania. *Ex. 1*, Complaint ¶ 5; 28 U.S.C. § 1332(c)(1) ("[A]
14 corporation shall be deemed to be a citizen of every State and foreign state by which it has been
15 incorporated and of the State or foreign state where it has its principal place of business.").

16 10. Accordingly, complete diversity exists.¹

17 **AMOUNT IN CONTROVERSY EXCEEDS \$75,000**

18 11. While Illinois Union disagrees that there is liability in the first instance or that
19 Plaintiff sustained damaged in any amount, the amount in controversy exceeds \$75,000. As set
20 forth in the Complaint, Plaintiff seeks "the full amount of the covered benefits due under the
21 Policy, plus interest at the maximum legally permissible rate from the date incurred, *in an amount*
22 *not less than the \$5 million Aggregate Policy Limit.*" *Ex. 1*, Complaint – Prayer for Relief ¶ 1
23 (emphasis added).

24 12. Plaintiff also seeks exemplary damages, attorneys' fees, and interest. *Ex. 1*,
25 Complaint – Prayer for Relief ¶¶ 2-9.

26
27 ¹ Although the Complaint names "Does 1 through 50" as defendants, "the citizenship of
28 defendants sued under fictitious names shall be disregarded" when evaluating a removal based
upon diversity jurisdiction. 28 U.S.C. § 1441(b)(1).

1 For these reasons, this action may be removed to this Court under 28 U.S.C. §§ 1441 and
2 1446.

3
4 DATED: May 2, 2022

CLYDE & CO US LLP

5
6 By: /s/ Susan Koehler Sullivan

7 Susan Koehler Sullivan

8 Brett C. Safford

9 Attorneys for Defendant

10 ILLINOIS UNION INSURANCE COMPANY
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